



COMMONWEALTH of VIRGINIA

DEPARTMENT OF ENVIRONMENTAL QUALITY

PIEDMONT REGIONAL OFFICE

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L. Preston Bryant, Jr.
Secretary of Natural Resources

David K. Paylor
Director

Gerard Seeley, Jr.
Regional Director

STATE WATER CONTROL BOARD ENFORCEMENT ACTION SPECIAL ORDER BY CONSENT ISSUED TO JIM, INC.

SECTION A: Purpose

This is a Consent Special Order issued under the authority of Va. Code §§ 62.1-44.15(8a) and (8d), between the State Water Control Board and JIM, Inc. for the purpose of resolving certain violations of environmental law and regulations.

SECTION B: Definitions

Unless the context clearly indicates otherwise, the following words and terms have the meaning assigned to them below:

1. "Board" means the State Water Control Board, a permanent citizens' board of the Commonwealth of Virginia as described in Va. Code §§ 10.1-1184 and 62.1-44.7.
2. "Va. Code" means the Code of Virginia (1950), as amended.
3. "Department" or "DEQ" means the Department of Environmental Quality, an agency of the Commonwealth of Virginia as described in Va. Code § 10.1-1183.
4. "Director" means the Director of the Department of Environmental Quality.
5. "PRO" means the Piedmont Regional Office of DEQ, located in Glen Allen, Virginia.
6. "Order" means this document, also known as a Consent Special Order.

7. "Facility" means the "Winnerham Market", the combination convenience store and gasoline station containing three (3) underground storage tanks currently in use, FAC ID No. 4021818 located at 14701 Patrick Henry Highway, Amelia, Virginia.
8. "JIM, Inc." means JIM, Inc., owner of "Winnerham Market", certified to do business in Virginia and its affiliates, partners, subsidiaries, and parents.
9. "Notification Form" means Form 7530 used by DEQ to register and track USTs for proper operation, closure and ownership purposes. 9 VAC 25-580-70.
10. "Regulation" means 9 VAC 25-580-10 *et seq.* (Underground Storage Tanks: Technical Standards and Corrective Action Requirements) relating to upgrading of existing USTs systems, registration of tanks, closure of noncompliant tanks, and release detection requirements.
11. "UST" means underground storage tank as defined in 9 VAC 25-580-10 and Virginia Code § 62.1-44.34:8.

SECTION C: Findings of Fact and Conclusions of Law

1. JIM, Inc. is a corporation organized and existing under Virginia laws. Gamal Ahmed is the President, Secretary, Director, Registered Agent and shareholder in JIM, Inc. Through JIM, Inc, Gamal Ahmed operates a convenience store and retail gasoline station known as Winnerham Market ("Facility"). The Facility is located at 14701 Patrick Henry Highway, Amelia, Virginia. Mr. Ahmed leased and operated Winnerham Market from October 1999 to May 1, 2007. Mr. Ahmed purchased the business and property, including the USTs, on May 1, 2007 and continues to operate the Facility.
2. At the Facility there are three USTs used to store petroleum for retail sale. The USTs are identified as follows:

Tank No.	Capacity	Content
1	8,000	gasoline
2	4,000	gasoline
3	4,000	gasoline

3. Because petroleum is a "regulated substance" as defined by Va. Code 62.1-44.34:8 and 9 VAC 25-580-10, the USTs at the Facility are regulated under 9 VAC 25-580-10, *et seq.*
4. On October 18, 2006, the Department conducted a formal inspection of the Facility and observed deficiencies at the site. A Warning Letter (WL) was issued to Charles Sr. & Carolyn Hardee who owned the property at that time, on January 25, 2007 to address the observed deficiencies. To address the unresolved

deficiencies, Mr. Ahmed, the operator of the Facility, signed a Letter of Agreement (LOA) on March 18, 2007. The LOA required that Mr. Ahmed conduct monthly release detection monitoring testing from April 2007 through July 2007 on the USTs and submit the test results to the Department by August 15, 2007.

5. On November 14, 2007, the Department issued a Notice of Violation (NOV) to Mr. Ahmed for the following deficiencies: (1) failure to submit an updated 7530 Notification Form to show a change in ownership of the USTs as required by 9 VAC 25-580-70; (2) failure to provide records of the monthly release detection monitoring test results as required by 9 VAC 5-580-120, 9 VAC 5-580-140 and 9 VAC 5-580-180; and (3) failure to demonstrate Financial Responsibility (FR) as required by 9 VAC 5-590-40 and 9 VAC 5-590-160.
6. On November 15, 2007, the Department received by fax from Mr. Ahmed an updated 7530 Notification Form and 3 months of monthly release detection passing test results from August through October 2007. In addition, Mr. Ahmed complied with FR in January 2008 and was issued a letter of compliance by the Department on January 17, 2008.
7. Mr. Ahmed has failed to continue to conduct the monthly release detection monitoring testing of the USTs at the Facility from October 2007 to the present date as required by 9 VAC 25-580-140.

SECTION D: Agreement and Order

Accordingly, the Board, by virtue of the authority granted it in Va. Code § 62.1-44.15(8a) and (8d), orders JIM, Inc., and JIM, Inc. voluntarily agrees, to perform the actions described in Appendix A of this Order; and voluntarily agrees to pay a civil charge of **\$2,865** in accordance with the schedule in Appendix A of the Order in settlement of the violations cited in this Order. The payment shall note that it is being made pursuant to this order and shall note the Federal Identification Number for JIM, Inc. Payment shall be by check, certified check, money order, or cashiers check payable to "Treasurer of Virginia" and sent to:

Receipts Control
Department of Environmental Quality
Post Office Box 1104
Richmond, Virginia 23218

SECTION E: Administrative Provisions

1. The Board may modify, rewrite, or amend the Order with the consent of JIM, Inc., for good cause shown by JIM, Inc., or on its own motion after notice and opportunity to be heard.

2. This Order only addresses and resolves those violations specifically identified herein, including those matters addressed in the NOV issued on November 14, 2007. This Order shall not preclude the Board or the Director from taking any action authorized by law, including, but not limited to: (1) taking any action authorized by law regarding any additional, subsequent, or subsequently discovered violations; (2) seeking subsequent remediation of the property as may be authorized by law; and/or (3) taking subsequent action to enforce the terms of this Order. Nothing herein shall affect appropriate enforcement actions by other federal, state, or local regulatory authority, whether or not arising out of the same or similar facts.
3. For purposes of this Order and subsequent actions with respect to this Order, JIM, Inc. admits the jurisdictional allegations, factual findings, and conclusions of law contained herein.
4. JIM, Inc. consents to venue in the Circuit Court of the City of Richmond for any civil action taken to enforce the terms of this Order.
5. JIM, Inc. declares it has received fair and due process under the Administrative Process Act, Va. Code §§ 2.2-4000 *et seq.*, and the State Water Control Law and it waives the right to any hearing or other administrative proceeding authorized or required by law or regulation, and to any judicial review of any issue of fact or law contained herein. Nothing herein shall be construed as a waiver of the right to any administrative proceeding for, or to judicial review of, any action taken by the Board to enforce this Order.
6. Failure by JIM, Inc. to comply with any of the terms of this Order shall constitute a violation of an order of the Board. Nothing herein shall waive the initiation of appropriate enforcement actions or the issuance of additional orders as appropriate by the Board or the Director as a result of such violations. Nothing herein shall affect appropriate enforcement actions by any other federal, state, or local regulatory authority.
7. If any provision of this Order is found to be unenforceable for any reason, the remainder of the Order shall remain in full force and effect.
8. JIM, Inc. shall be responsible for failure to comply with any of the terms and conditions of this Order unless compliance is made impossible by earthquake, flood, other acts of God, war, strike, or such other occurrence. JIM, Inc. shall show that such circumstances were beyond its control and not due to a lack of good faith or diligence on its part. JIM, Inc. shall notify the DEQ Regional Director in writing when circumstances are anticipated to occur, are occurring, or have occurred that may delay compliance or cause noncompliance with any requirement of the Order. Such notice shall set forth:
 - a. the reasons for the delay or noncompliance;

- b. the projected duration of any such delay or noncompliance;
- c. the measures taken and to be taken to prevent or minimize such delay or noncompliance; and
- d. the timetable by which such measures will be implemented and the date full compliance will be achieved.

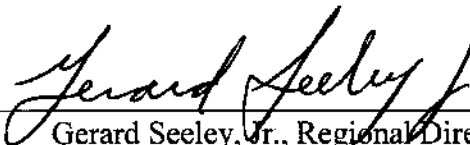
Failure to so notify the Regional Director within 24 hours of learning of any condition above, which the parties intend to assert will result in the impossibility of compliance, shall constitute a waiver of any claim to inability to comply with a requirement of this Order.

- 9. This Order is binding on the parties hereto, their successors in interest, designees and assigns, jointly and severally.
- 10. This Order shall become effective upon execution by both the Director or his designee and JIM, Inc. Notwithstanding the foregoing, JIM, Inc. agrees to be bound by any compliance date which precedes the effective date of this Order.
- 11. This Order shall continue in effect until:
 - a. JIM, Inc. petitions the Director or his designee to terminate the Order after it has completed all of the requirements of the Order and the Director or his designee approves the termination of the Order; or
 - b. The Director or Board terminates the Order in his or its sole discretion upon 30 days written notice to JIM, Inc.

Termination of this Order, or any obligation imposed in this Order, shall not operate to relieve JIM, Inc. from its obligation to comply with any statute, regulation, permit condition, other order, certificate, certification, standard, or requirement otherwise applicable.

- 12. By the signatures below, JIM, Inc. voluntarily agrees to the issuance of this Order.

And it is so ORDERED this 11th day of December, 2008.


Gerard Seeley, Jr., Regional Director
Department of Environmental Quality

C. Akers
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JIM, Inc. voluntarily agrees to the issuance of this Order.

By: *Gamal Ahmed*
Date: 9-16-2008

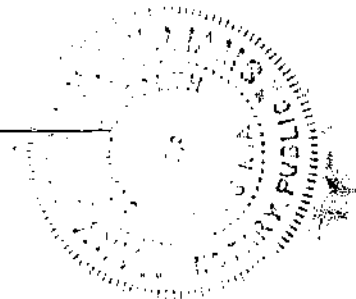
Commonwealth of Virginia

City/County of Amelia

The foregoing document was signed and acknowledged before me this 16th day of
September, 2008, by Gamal Ahmed, who is
(name)
Owner of JIM, Inc., on behalf of the Corporation.
(title)

Mary Alice A. Williams
Notary Public #250243

My commission expires: My Commission Expires March 31, 2009



APPENDIX A

JIM, Inc. shall:

1. Make **four (4) quarterly payments** in settlement of the violations cited in the Order as scheduled below:
 - A payment of **\$716.25** shall be due by.....**January 21, 2009**
 - A payment of **\$716.25** shall be due by.....**April 10, 2009**
 - A payment of **\$716.25** shall be due by.....**July 10, 2009**
 - A payment of **\$716.25** shall be due by.....**October 10, 2009**
2. Submit to the Department, copies of the monthly tank release detection testing and monitoring records in accordance with 9 VAC 25-580-140 for the next **13** consecutive months, beginning with **September 2008** and ending with the **September 2009** records. JIM, Inc. shall **submit the monthly release detection testing and monitoring records by October 15, 2008, November 15, 2008, December 15, 2008, January 15, 2009, February 15, 2009, March 15, 2009, April 15, 2009, May 15, 2009, June 15, 2009, July 15, 2009, August 15, 2009, September 15, 2009, and October 15, 2009.**
3. Pursuant to this Order, submit all documentation as required by Appendix A to:

**Cynthia Akers
Department of Environmental Quality
Piedmont Regional Office
4949-A Cox Road
Glen Allen, Virginia 23060**